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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,015	04/25/2006	Lajos Fehervizy	31443-230140	2780
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VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			EXAMINER QUINN, RICHAE LEE	
			ART UNIT	PAPER NUMBER
			3765	
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			12/11/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/577,015	Applicant(s) FEHERVIZY, LAJOS	
	Examiner Richale L. Haney Quinn	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/25/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: Claim 1 recites the limitation "the" in arc length and total arc length. There is insufficient antecedent basis for this limitation in the claim. Applicant has not positively recited these limitations in the claim. It is noted that both "the arc length" of the backside and the "total arc length" of the fore-arc could be used to describe different structural elements on the claimed device since there is more than one position that could be called an "arc length", i.e. the top edge, bottom edge. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant recites that "the arc length of the backside arc is shorter than that total arc length of the at least one fore-arc and the distance measured between the lower rim of the backside arc and the lower rim of the fore-arc is smaller than the width of the backside arc." There are numerous positions upon the backside arc that could be measured to achieve an arc length measurement. For example, is applicant referring to the horizontal or vertical length of the arc, at the top edge, bottom edge or at a position somewhere in between the top and bottom edges? The same

rationale applies to "the total arc length" of the at least one fore-arc. It is unclear what the total arc length is. Moreover, the recitation "the distance measured between the lower rim and the back side arc and the lower rim of the fore-arc is smaller than the width of the backside arc" is indefinite, since applicant has not specified where along the lower rim of the back side arc and the lower rim of the fore-arc that the measurement is taken. The measurement would vary from various points along the lower rims of the fore-arc and backside arc.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 2 and 4 – 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Cho US 4,706,305. The device of Cho discloses a headband for protection of a toddler having a rounded band body consisting of at least one fore-arc (22), a backside arc (24), said fore-arc has a central portion located above the nose in the vertical symmetry line of the body and the backside arc is attached to the at least one fore-arc in connecting areas (26, 28). Wherein the width of the backside arc (24) is greater than the maximum width of the fore-arc (22) and the arc length of the backside arc is shorter than the total arc length of the at least one fore-arc, and the distance measured between the lower rim of the back side arc and the lower rim of the fore-arc is smaller

than the width of the backside arc, in as much as shown and disclosed by applicant. A face protecting band (96) fitted between a right side stem and a left side stem (Figure 1, left and right sides of 96) such that the left side stem is fitted to the left side of the backside arc (Figure 1) and the right stem is fitted to the right side of the backside arc by means of a dead joint (Column 5, lines 40– 43). The face protector (96) is made from an energy absorbing material and coated with an impact resistant plastic material (Column 3, lines 56 – 65 and Column 5, lines 45 - 47).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Adams US 2,611,897. The device of Cho substantially discloses the claimed invention but is lacking stems that are less in width than the width of the face protector. The device of Adams shows a face protector (30) having a width at a central location that is wider than the stems (near reference character (36) connecting the face protector to the backside arc (Figure 2) by dead joints (38, 40). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device of Cho by utilizing face protector of Adams in order to provide a better fit to the contours of the wearers face to allow for a more comfortable apparatus.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Frazier US 600,778, Bryska US 4,317,239, Gregg, III et al US 5,768,715, and Klose et al. US 5,421,035.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney Quinn whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richale L Haney Quinn
Examiner

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RLQ

\Katherine Moran\

Primary Examiner, AU 3765